

REMARKS

Claims 3, 4, 8 and 10 are pending in the above application. By the above amendment, claims 1, 2 and 5-7 have been cancelled without prejudice.

The Office Action dated April 10, 2007, has been received and carefully reviewed. In that Office Action, claims 1, 2, 8 and 10 were rejected under 35 U.S.C. 102(b) as being anticipated by Berstis, claims 3-6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis in view of Powell, and claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis in view of Official Notice. By the above amendment, claim 3 has been rewritten in independent form, and claims 1, 2 and 5-7 have been cancelled. Because the scope of the pending claims has not been changed, and because the above amendment reduces the number of claims and hence the number of issues for a possible appeal, the entry of the above amendment is respectfully requested. As discussed below, it is not believed that the art of record shows or makes obvious the inventions defined by the pending claims, and reconsideration and allowance of claims 3, 4, 8 and 10 is respectfully requested in view of the following remarks.

REJECTIONS UNDER 35 U.S.C. 102(b)

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Berstis. Claim 8 recites a copyright management apparatus that includes, inter alia, a copyright royalty data storage unit storing, for each of a number of copyright holders, copyright royalty data received by a communication unit, and a copyright royalty data approval processing unit causing said communication unit to transmit to an external source copyright royalty data recorded in said copyright royalty data recording unit after an approval of said copyright royalty data stored in said copyright royalty data storage unit is received. The Office Action interprets Berstis' management server as constituting a copyright royalty data recording unit. Under this interpretation, Berstis does not disclose any element corresponding to a copyright royalty data approval processing unit as claimed. The Office Action refers again to Berstis' management server as part of a copyright royalty approval processing unit. However, nothing in Berstis suggests that any "approvals" of royalty data occur in the server. The Office Action also refers to column 9, lines 27-34, of Berstis which mentions checking a user's account (not the copyright

owner's account referred to above) to determine whether the user is entitled to an additional copy. It is respectfully submitted that whether a user has enough money available to pay for an additional copy in no manner constitutes an approval of royalty information as recited in claim 8. It is therefore respectfully submitted that Berstis does not show or suggest a copyright royalty data approval processing unit as recited in claim 8 and that claim 8 is allowable over Berstis for at least this reason.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Berstis. Claim 10 recites an electronic copyrighted work distribution management system that includes 1) an electronic copyrighted work sales apparatus, 2) a copyright management apparatus, 3) a seller terminal, and 4) a copyright holder terminal. Claim 10 also provides further descriptions of some of these elements. As discussed below, Berstis does not show each of the four elements recited above or elements having the further features defined by claim 10.

Berstis discloses a system having a number of individual elements. However, it is not clear from the Office Action which of these elements is alleged to correspond to the claimed "copyrighted work sales apparatus." For this portion of the rejection, the examiner refers to two paragraphs reciting general "objects" of the invention. Neither of these objects points to any structure that is believed to correspond to a copyrighted work sales apparatus. However, the claimed copyrighted work sales apparatus includes a manipulation unit, and the Office Action refers to part of remote control 106 in Berstis as a manipulation unit. Since this manipulation unit is associated with a data processing unit 102, it appears the Office Action is calling data processing unit 102 a copyrighted work sales apparatus. Confirmation or clarification of this point is requested.

Claim 10 further requires that the recited copyrighted work sales apparatus include a copyright royalty information storage unit. Nothing in the record suggests that Berstis' data processing unit 102 stores any royalty data or in any manner includes a copyright royalty information storage unit. Column 8, lines 14-25, referred to in the Office Action, discusses Berstis' management server, which is not part of data processing unit 102. Claim 10 further recites that the copyrighted work sales apparatus includes a copyright royalty calculation unit. However, Berstis discloses royalty information stored in a management server. There is no

indication that royalty information is stored in data processing unit 102 or that any royalty calculations are carried out in data processing unit 102. It follows that data processing unit does not include a communication unit sending royalty information to a management unit as would seem to be required under the interpretation of claim 10 being used in the Office Action.

The claimed copyright management unit furthermore includes a copyright royalty data approval processing unit. The Office Action refers both to column 8, lines 21-28, where distributing a royalty to a copyright owner is discussed and to column 9, lines 21-26 where debiting a user's account for copies obtained is discussed. Neither of these portions show a copyright royalty data approval processing unit as recited. If this rejection is maintained, it is respectfully requested that the examiner explain what in Berstis constitutes an "approval" of a copyright royalty and how some portion of Berstis' device carries out such an approval. Claim 10 is submitted to be allowable for at least these reasons.

REJECTIONS UNDER 35 U.S.C. 103(a)

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis in view of Powell. Claim 3 recites an electronic copyrighted sales apparatus that includes a sales information recording unit recording sales status of a relevant electronic copyrighted work sales apparatus, an identification information storage unit storing identification information of an electronic copyrighted work sales apparatus, and a sales information control unit sensing attachment of a sales information readout card corresponding to the identification information stored in said identification information storage unit, and reading out sales status recorded in said sales information recording unit. The Office Action acknowledges that Berstis does not disclose these elements. However, Powell is cited to show these features. Powell discloses a network of vending machines that communicate with each other by writing information to a customer's card and reading card information when that card is used in a different vending machine. Powell thus provides a method for vending machines to communicate without being connected to a network.

It is respectfully submitted that a proper motivation for modifying Berstis in view of Powell has not been provided and that therefore a prima facie case of obviousness has not been presented. Berstis discloses a system for controllably downloading files. Berstis discloses

machines connected over a network. Berstis in no manner suggests a public system where users would carry cards from one machine to another to transmit information. Moreover, because Berstis discloses a system wherein machines are connected to a network, there is no need to provide a different system for passing information between machines. Berstis does not suffer from the same problem as Powell, and one skilled in the relevant arts would have no reason to look to Powell to solve such a non-existent problem. The Office Action indicates that combining the references would provide “dispense counts, paper currency receipt data, coin currency receipt data” etc. for a specific machine. However, Berstis does not disclose a vending machine or a machine that receives coins or bills, and this statement of motivation for modifying Berstis is not supported by the record. For these reasons, it is respectfully submitted that a proper motivation for combining Berstis and Powell has not been provided and that claim 3 is allowable over Berstis and Powell.

Claim 4 depends from claim 3 and is submitted to be allowable over the art of record for at least the same reasons as claim 3.

CONCLUSION

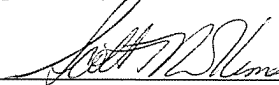
Each issue raised in the Office Action dated April 10, 2007, has been addressed, and it is believed that claims 3, 4, 8 and 10 are now in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the examiner is respectfully requested to contact Scott Wakeman (Reg. No. 37,750) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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